Minutes of the 119th meeting of the Board of the EHRC

19 June 2024 (13:45 to 18:00)
Clayton Hotel, Penarth Road, Cardiff, CF10 1RH

Attending

Commissioners

Kishwer Falkner (Chairwoman), Lesley Sawers (Interim Deputy Chair) (V), Jess Butcher, Joanne Cash (V), David Goodhart, Alasdair Henderson, Kunle Olulode, Akua Reindorf, Martyn Jones

Officers

John Kirkpatrick, Deputy Chief Executive
Moya Alcock, Director of Communications
Cihan Altan, Chief of Staff
Miriam Bookman, Private Secretary
Bill Malloy, Director of Finance, Governance and Planning
Victoria Mearns, Interim Board Secretary
Katherine Perks (items 14, 16 and 17)
Will Taylor (item 13)

Guests

Helen Anderson, Government Equality Hub

1. Chairwoman's welcome and apologies

1.1 The Chairwoman welcomed attendees.

1.2 Apologies were received from Commissioner Thompson.

2. Declarations of interest

2.1 Commissioner Henderson declared a potential interest regarding his professional role advising on a matter which might come up during the CEO report, in which case he would recuse himself.

3. Minutes of the 118th Board meeting and 21 May Special Board meeting

3.1 The Board approved the minutes of the 14 May 118th Board meeting as an accurate record.

3.2 The Board approved the minutes of the 21 May Special Board meeting as an accurate record.

4. Actions Arising

4.1 The Board noted the action log.

4.2 The Chairwoman advised she is content that items on the action log are in hand and will be covered at this or future meetings.

5. Decisions by Correspondence

5.1 Commissioners had been asked via correspondence to approve the final wording to restore the delegation to the CEO for the management of conduct performance and discipline of the Leadership Team. Eight Commissioners, including the Chairwoman, confirmed their approval.

6. Committee and Commissioner Working Group updates

6.1 The Board noted the Committee and Commissioner Working Group update papers.

6.2 The Board agreed to extend the term of ARAC Independent Member Charlotte Moar to 30 September 2025.

6.3 The Board noted the protocol for expenditure requested by Commissioners of the Board as endorsed by the ARAC, and raised concerns that it omits the legal role of the Chair in ensuring controls and managing risk. The ARAC Chair agreed that ARAC would review the protocol and provide an updated version to the Board.'

ACTION: ARAC to review and update the protocol for expenditure and share this with the Board.

7. CEO Report and Chairwoman's update

7.1 The Board noted the CEO report.

7.2 The Interim CEO highlighted several events, including the all staff away day, a leadership team away day, the announcement of enforcement action against the Department for Work and Pensions, meeting with civil society stakeholders including Stonewall, which was attended by several Commissioners.

7.3 The Chairwoman praised the draft Code of Practice shared with Commissioners. The Interim CEO advised that both the Code of Conduct and Strategic Plan will go out for consultation as soon as practicable once Parliament is in session.

7.4 The Interim CEO provided an update on the Commission's estates strategy, with the Board agreeing the proposed approach. The Board also agreed that the Chair of the P&WC should authorise any potential lease for a London office, and by doing so provide assurance on behalf of the Board.

7.5 The Board discussed a potential legal intervention, from which Commissioner Reindorf recused herself from due to a conflict of interest. The Board agreed that the Commission's approach to confidentiality needs reviewing to ensure that the Board and Committees are fully sighted on all relevant matters.

7.6 The Director of Finance, Planning and Governance detailed the new process for monitoring office attendance and advised that it will enable Directors to provide accurate attendance numbers to Board.

7.7 The Interim CEO advised that the Chief Operating Officer will be leaving the Commission at the end of June, noting his thanks for her support and guidance and her contribution to the EHRC.

8. New Committee options

8.1 The Board approved the terms of reference for the Remuneration Committee. The Chair advised that she would seek expressions of interest for membership.

8.2 The Board approved in principle the terms of reference for the Quality in Public Reporting Committee, subject to the Chair and Interim CEO incorporating the following suggested amends:

a) Increasing the number of meetings;
b) Provision for inviting Scotland and Wales Commissioners; and
c) A clearer triaging process to determine what business comes to the Committee.

Once amended, the updated terms of reference will be shared with the Board and the Chair will seek expressions of interest for membership.

ACTION: CEO to update Quality in Public Reporting Committee ToRs to take into account members' comments and bring back to Board.

9. Governance Review and Governance Manual Revisions

9.1 The Board reviewed the Governance Manual revisions recommended by the external governance review. The Board agreed to postpone any decision on the Commission Secretary position until the Chair, Deputy Chair and Interim CEO reviewed this further.

9.2 The Board noted the Code of Conduct revisions recommended by the external governance review. It was agreed that revisions to the Code should be postponed until further drafting by the working group, including the Chairwoman, the Deputy Chair, ARAC Chair and P&WC Chair. Commissioners should provide this working group with any comments or amends.

ACTION: Commissioner Working Group to present an updated Code of Conduct to the Board for approval at its next meeting.

10. General Election

10.1 The Board discussed the upcoming General Election and how a new government could change the Commission's working context.

10.2 The Interim CEO outlined the Commission's proposed approach to engaging with the incoming Government, which the Board endorsed. This focused on provision of independent advice to the Government.

11. Sexual Harassment Enforcement Duties

11.1 The Board noted the paper and agreed its contents. The Board approved writing to the sponsor Minister post-election for further funding, and nominated the Chair of P&WC to review publications and act as media spokesperson.

11.2 Commissioners raised some concerns regarding the impact of this work on free speech. Officers provided assurance that the initial priority of the EHRC will be ensuring employers fully understand their legal obligations.

12. Social Media Awareness Days

12.1 The Board agreed that the Commission should not mark any awareness days on social media, except for the United Nations International Human Rights Day.

13. Khan Review Response

13.1 The Board agreed to postpone any decision on responding to the Khan Review until after the General Election.

ACTION: Khan review response to be added to the Board forward schedule after the general election.

14. Inclusion at Work Panel Report

14.1 The Board agreed to postpone decisions on responding to the Inclusion at Work panel report until after the General Election.

ACTION: Inclusion at Work panel report to be added to the Board forward schedule after the general election.

15. AOB

15.1 The Board noted the following papers:

a) Forward Schedule
b) Wales Committee Annual Assurance Report
c) ARAC Annual Assurance Report
d) P&WC Annual Assurance Report

15.2 The Chairwoman advised that there will be a special Board Meeting on 26 June to confirm the Annual Report and Accounts. The next full Board meeting will be in London on 18 September.

15.3 With no other business, the Chairwoman closed the meeting.